United States Senate
COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP
WASHINGTON, DC 20510-6350

October 12, 2001

The Honorable Charles Grassley
Ranking Member
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Chuck:

Senator Domenici wrote me very recently that he had proposed to you that the economic stimulus package include a provision to waive all fees for government guaranteed small business loans made over the next year. The legislative language he sent you to accomplish this goal was taken from a comprehensive small business stimulus bill I introduced last week. A copy of that bill was earlier provided to members of your staff including Kolan and Dean. I strongly endorse Senator Domenici's recommendation.

The "Small Business Leads to Economic Recovery Act of 2001" (S. 1493) tackles the major challenges that small businesses are facing now throughout this great Nation. The bill would improve the ability of small business owners to get low-interest and no-interest loans and includes the provision to waive all fees paid by small businesses to obtain government-guaranteed loans. Further, my bill sets forth a series of changes in the tax code to stimulate job creation and investments by small businesses. Lastly, S. 1493 would improve access for small businesses to participate as prime contractors in our reconstruction, security, and military activities following the September 11 terrorist attacks. A summary of the bill's provisions is attached for your review and consideration.

Thank you for your attention to my proposals to help our Nation's small businesses. This help will pay quick and nationwide dividends as small businesses lead the way to a turnaround in our economic doldrums. Of course, if you need any additional information on my bill, please do not hesitate to let me know.

Sincerely,

Kit

Christopher S. Bond
Ranking Member

Enclosure

cc: Kolan Davis
Staff Director and Chief Counsel

S. 1493
"Small Business Leads to Economic Recovery Act of 2001"
Description of Provisions

Title I - Small Business Emergency Loan Assistance

Section 101. Short Title.

This section sets forth the title, "Small Business Leads to Economic Recovery Act of 2001."

Section 102. Definitions.

This section provides the definitions of key words used in Title I.

Section 103. Deferment of Disaster Loan Payments.

In recognition that the small businesses eligible for Disaster Assistance Loans will not be able to begin repayment of the loans for up to two years, the bill provides that both principal and interest payment will be deferred for two years from the date of loan origination. Interest that accrues during the deferment period would be forgiven.

Section 104. Refinancing Existing Disaster Loans.

As the result of the World Trade Center bombing in 1993, there are small businesses in the Presidentially-declared disaster area that have outstanding SBA disaster loans. This section will permit small businesses to refinance outstanding disaster loans in the new disaster loans with the two-year deferment provision.

Section 105. Emergency Relief Loan Program.

This section creates a special one-year program at the SBA using key components of the 7(a) guaranteed business loan program to create a working capital loan program for small businesses suffering significant economic injury as the result of the September 11, 2001, terrorist attacks on the World Trade Center and the Pentagon. The loans would have a 95% guarantee, and there would be no up-front borrower fee. The interest rate would be the Prime Rate plus 1%. Banks would have the option to defer principal payments for up to one year.

This special working capital loan program recognizes there are small businesses nationwide that are experiencing serious cash flow difficulties as the result of the terrorist attacks (e.g., travel agencies, flight training and other commercial users of single-engine VFR aircraft).

Section 106. Economic Recovery Loan and Financing Programs.

As the result of the deteriorating economy, which was experiencing a downturn prior to September 11, 2001, banks had initiated steps to tighten the availability of credit to small businesses. For Fiscal Year 2001, it is projected that new loan originations may drop as much as 25% from the projections on October 1, 2000.

This section will make significant changes for one year to the 7(a) guaranteed business loan program. Loans would be available for all qualified borrowers. The up-front loan origination fee paid by the borrower, which ranges from 2.0% to 3.5% depending on loan size, would be eliminated. The guarantee percentage for the general loan program would be increased from 75% to 85%. For the LowDoc program, the guarantee percentage would increase from 80% to 90%.

This section would also make similar changes to the 504 Certified Development Company Loan Program. For one year, the up-front fee paid by the bank making the loan in the first loss position would be eliminated. Further, the annual fee paid by the borrower would also be dropped.

Title II - Small Business Tax Provisions for Economic Stimulus

Section 201. Amendment of 1986 Code.

This section clarifies that all changes in the bill are to the Internal Revenue Code of 1986, as previously amended.

Section 202. Increase in Expense Treatment of Certain Depreciable Business Assets for Small Businesses.

The bill amends section 179 of the Internal Revenue Code to increase the amount of equipment purchases that small businesses may expense each year from the current $24,000 to $100,000. This change will eliminate the burdensome recordkeeping involved in depreciating such equipment and free up capital for small businesses to grow and create jobs.

The bill also increases the phase-out limitation for equipment expensing from the current $200,000 to $500,000, thereby expanding the type of equipment that can qualify for expensing treatment. This limitation along with the annual expensing amount will be indexed for inflation under the bill.

Following the recommendation of the National Taxpayer Advocate, the bill also amends section 179 to permit expensing in the year that the property is purchased or the year that the property is placed in service, whichever is earlier. This will eliminate the difficulty that many small enterprises have encountered when investing in new equipment in one tax year (e.g., 2001) that cannot be placed in service until the following year (e.g., 2002). The equipment-expensing provisions will be effective for taxable years beginning after December 31, 2000.

Section 203. Expensing of Computer Software.

In connection with the expanded equipment-expensing limits, the bill also permits taxpayers to expense computer software up to the new $100,000 limit on annual equipment expensing. This provision will eliminate the compliance costs and burdens of depreciation software over a three-year period, which is often inconsistent with the product's actual useful life. This provision will be effective for taxable years beginning after December 31, 2000.

Section 204. Modification of Depreciation Rules for Computers and Software.

For small business taxpayers who do not qualify for expensing treatment, the bill modifies the outdated depreciation rules to permit taxpayers to depreciate computer equipment and software over a two-year period. Under present law, computer equipment is generally depreciated over a five-year period and software is usually depreciated over three years. With the rapid advancements in technology, these depreciation periods are sorely out of date and can result in small businesses having to exhaust their depreciation deductions well after the equipment or software is obsolete. The bill makes the tax code in this area more consistent with the technological reality of the business world. This provision will be effective for computers and software placed in service in taxable years beginning after December 31, 2000.

Section 205. Adjustments to Depreciation Limits for Business Vehicles.

The bill amends section 280F of the Internal Revenue Code, which limits the amount of depreciation that a business may claim with respect to a vehicle used for business purposes. Under the current thresholds, a business loses a portion of its depreciation deduction if the vehicle costs more than $14,460 (for vehicles placed in service in 2000). Although these limitations have been subject to inflation adjustments, they have not kept pace with the actual cost of new cars, light trucks and vans in most cases. For many small businesses, the use of a car, light truck or van is an essential asset for transporting personnel to sales and service appointments and for delivering their products. Accordingly, the bill adjusts the thresholds so that a business will not lose any of its depreciation deduction for vehicles costing less than $25,000, which will continue to be indexed for inflation. This provision will be effective for vehicles placed in service in taxable years beginning after December 31, 2000.

Section 206. Increased Deduction for Business Meal Expenses.

The bill increases the limitation on the deductibility of business meals from the current 50% to 100% beginning in 2001 to provide an incentive for businesses to return to their local restaurants. At the same, this provision will assist non-restaurant businesses and self-employed individuals level the playing field. Unlike their large competitors, small enterprises often sell their products and services by word of mouth and close many business transactions on the road or in a local diner. In many ways the business breakfast with a potential customer is akin to formal advertising that larger businesses purchase in newspapers or on radio or television. While the newspaper ad is fully deductible, however, the business meal is only 50% deductible for the small business owner.

In addition, many self-employed individuals like sales representatives spend enormous amounts of time on the road with no choice but to eat in restaurants while away from home, further straining their cash flow. By increasing the deduction to 100%, the bill addresses these problems, as well as the lack of parity that small business owners face with respect to individuals subject to the Federal hours-of-service limitations of the Department of Transportation (such as truck drivers) who are currently able to deduct a larger portion of their business meals.

Section 207. Modification of Unrelated Business Income Limitation on Investments in Certain Debt-Financed Properties.

With the recent contraction of the private-equity market, the Small Business Investment Company (SBIC) program, which is overseen by the SBA, has taken on a significant role in providing venture capital to small businesses seeking investments in the range of $500,000 to $3 million. Debenture SBICs qualify for SBA-guaranteed borrowed capital, which subjects tax-exempt investors that would otherwise be inclined to invest in Debenture SBICs to tax liability for unrelated business taxable income (UBTI). When free to choose, tax-exempt investors generally opt to invest in venture capital funds that do not create UBTI. As a result, 60% of the private-capital potentially available to Debenture SBICs is effectively "off limits."

The bill would exclude government-guaranteed capital borrowed by Debenture SBICs from debt for purposes of the UBTI rules. This change would permit tax-exempt organizations to invest in Debenture SBICs without the burdens of UBTI recordkeeping or tax liability, thereby providing additional capital for investment in small businesses across the nation. This provision would be effective for acquisitions made on or after the date of enactment of this bill.

Section 208. Repeal of Alternative Minimum Tax on Individuals.

The bill repeals the individual Alternative Minimum Tax (AMT) effective for taxable years beginning after December 31, 2000. For individual taxpayers, the individual AMT has become an increasingly burdensome tax. For the sole proprietors, partners, and S corporation shareholders, the individual AMT increases their tax liability by, among other things, limiting depreciation and depletion deductions, net operating loss treatment, the deductibility of state and local taxes, and expensing of research and experimentation costs. In addition, because of its complexity, this tax forces small business owners to waste precious funds on tax professionals to determine whether the AMT even applies.

Section 209. Expansion of the Exemption from the Alternative Minimum Tax for Small Corporations.

For small corporate taxpayers, the bill increases the current exemption from the corporate AMT, under section 55(e) of the Internal Revenue Code. Under the bill, a small corporation will initially qualify for the exemption if its average gross receipts are $7.5 million or less (up from the current $5 million) during its first three taxable years. Thereafter, a small corporation will continue to qualify for the AMT exemption for so long as its average gross receipts for the prior three-year period do not exceed $10 million (up from the current $7.5 million). The increased limits for the small-corporation exemption from the corporate AMT will be effective for taxable years beginning after December 31, 2000.

Title III - Small Business Procurements

Section 301. Expansion of Opportunity for Small Businesses to be Awarded Department of Defense contracts for Architectural and Engineering Services and Construction Design.

The Brooks Act was enacted in 1982 and prohibits any small businesses set asides for architectural and engineering contracts valued at $85,000 or more. No change in this ceiling has been made since enactment of the Brooks Act. This section would increase the ceiling to $300,000, which would create, almost immediately, new Federal contracting opportunities for small businesses.

Section 302. Procurements of Property and Services in Amounts not in excess of $100,000 from Small Businesses.

This section would make more contracts valued at less than $100,000 available to small businesses. Under the Federal Supply Schedule (FSS) at GSA, all agency contracts, requirements, or procurements valued at less than $100,000 would be made from a small businesses.

For contracts for property or services not on the GSA's FSS, the procuring agency would set aside such contracts, valued at less than $100,000, for competition among small businesses registered on the SBA's PRO-Net and the DoD's Centralized Contractor Registration (CCR) System. There would be a two-year phase-in period. After an initial six-month period, during the first year, 25% of the dollar value of all contracts less than $100,000 would be awarded to small businesses. This would increase to 50% in the second and subsequent years.

Section 303. HUBZone and 8(a) Sole-Source Contracts.

Contracts for property and services made with funds from the "2001 Emergency Supplemental Appropriations Act for Recovery From and Response to Terrorist Attacks on the United States" will be exempt from the ceiling on sole-source contracts under the HUBZone and 8(a) programs. Currently, the ceilings are $3 million for service contracts and $5 million for manufacturing contracts.